

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
DIVISION**

IN RE:

Case No.
Chapter 13

MOTION TO APPROVE LOAN MODIFICATION AGREEMENT

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT _____ ON OR BEFORE _____ WHICH IS AT LEAST FOURTEEN (14) DAYS FROM THE DATE OF SERVICE HEREOF.

ANY OBJECTION SHALL BE IN WRITING AND FILED WITH THE CLERK AND SHALL BE SERVED UPON MOVANT(S) AND ANY COUNSEL FOR THE MOVANT(S) PRIOR TO THE OBJECTION DEADLINE SET FORTH HEREIN. IF A TIMELY OBJECTION IS FILED, THE COURT SHALL SET A HEARING ON THE MOTION. NOTICE OF SAID HEARING WILL BE SERVED ONLY ON A PARTY FILING A WRITTEN OBJECTION.

ANY PARTY THAT DOES NOT FILE A OBJECTION SHALL BE DEEMED TO HAVE CONSENTED TO THE RELIEF SOUGHT HEREIN AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now _____ (“Debtors”) OR _____ (“Lender”) and files this Motion to Approve Loan Modification Agreement and, for same, would respectfully show the Court as follows:

1. All capitalized terms which are used in this document are used and defined as in the Loan Modification Program adopted by this Court.
2. The Movant seeks approval of a Loan Modification Agreement by and between _____ (“Debtor” and _____ (“Lender”)) and any additional parties executing the Loan Modification Agreement. The effective date of the Loan Modification Agreement is _____.

3. The names of all obligors on the Eligible Loan are
The obligors are collectively referred to hereafter as “Borrower”.

4. The address of the Eligible Property that secures the Eligible Loan is

5. The Eligible Property is is not the Debtor’s principal residence.

6. The original amount of the Eligible Loan was

7. The following is a comparison of the current terms of the Eligible Loan and what the terms will be following the modification:

	Current Mortgage	Modified Mortgage
Principal		
Interest Rate		
Fixed yes no		
Adjustable yes no		
Term of the loan in months		
Date of the last payment		
MONTHLY PAYMENT:		
Principal and interest		
Monthly Escrow		
Total Monthly Payment		

8. The following are the additional fees, costs or deposits, if any, charged to the Debtor by the Lender pursuant to the Loan Modification Agreement, including any attorney fees claimed by the Lender with regard to the Loan Modification Matter:

This amount shall be [select one]:

paid by the Debtor in cash OR

capitalized OR

disbursed by the Chapter 13 Trustee OR

Pursuant to the Loan Modification Program, Lender is not required to file a Notice of Fees, Expenses, and Charges pursuant to Rule 3002.1 of the Federal Rules of Bankruptcy Procedure with regard to these charges. If fees, expenses or charges are incurred after the effective date, the Lender may file a Notice of Fees, Expenses, and Charges in accordance with Rule 3002.1 of the Federal Rules of Bankruptcy Procedure, if applicable.

9. The payments due under the Loan Modification Agreement are \$ _____ and the first payment is due on or before _____ and shall be paid thereafter as set forth in the Loan Modification Agreement until the Lender is paid in full pursuant to the modified loan. Pursuant to the Loan Modification Program, Lender is not required to file a Notice of Payment Change pursuant to Rule 3002.1 of the Federal Rules of Bankruptcy Procedure with regard to this payment change. The name and address of the entity which is to receive the payments is as follows:

If the payment amount changes after the effective date of the Loan Modification Agreement, the Lender may file a Notice of Payment Changes in accordance with Rule 3002.1 of the Federal Rules of Bankruptcy Procedure, if applicable.

10. PICK ONE:

There is no shortfall between the amount of the Trial Period Payments and the amount due under the Loan Modification Agreement. OR

There is a shortfall between the amount of the Trial Period Payments and the amount due under the loan Modification Agreement in the amount of \$ _____. This shortfall shall be paid as follows:

PICK ONE

The Chapter 13 Trustee is authorized to disburse this amount to the Lender as a post-petition arrearage, said arrearage to be paid in accordance with the provisions of the Plan and all applicable Rules and Procedures. The Trustee should be authorized to make such disbursements without further modification of the Chapter 13 Plan.

If the Chapter 13 Trustee is holding Reserved Funds, he/she should be authorized to disburse any Reserved Funds first to the Lender to cure any shortfall in payment to the Lender which occurs as a result of a change in the modified loan payment and then to the debtor's attorney to be applied to all outstanding attorney's fees until the outstanding balance of any attorney's fees is paid in full and, thereafter, shall disburse any remaining Reserved Funds to satisfy the claims of other creditors, which disbursements should be made in accordance with the

provisions of the Plan and all applicable Rules and Procedures. The Trustee should be authorized to make such disbursements without further modification of the Chapter 13 Plan.

[PICK ONLY IF THE CASE IS NOT A CONDUIT CASE] The Debtor shall make this payment to the Lender as agreed by the parties.

11. Except as provided for herein, Debtor and any other Borrower will be current upon the approval of the Loan Modification Agreement if that is obtained prior to and the Debtor and any other Borrower will be current if the approval is obtained after that date, provided the payments due under the modified loan are made timely.

12. PICK ONE:

If the loan modification is approved, any arrearage provided for in the Chapter 13 Plan is no longer to be paid by the Chapter 13 Trustee, the Debtor or any other Borrower.

OR

The total amount of any arrearage to be paid through the Plan, including amounts already disbursed by the Chapter 13 Trustee, is \$[insert amount]. The Chapter 13 Trustee should be authorized to modify the total amount of the arrearage to be paid through the Plan to Lender without the necessity of the Lender filing an amended proof of claim or any notice or pleading pursuant to Rule 3002 .1 of the Federal Bankruptcy Rules and Procedures.

13. If the Chapter 13 Trustee is holding Reserved Funds, he/she should be authorized to disburse the Reserved Funds, if any, to the debtor's attorney to be applied to all outstanding attorney's fees until the outstanding balance of any attorney's fees is paid in full and, thereafter, shall disburse any remaining Reserved Funds to satisfy the claims of other creditors, which disbursements should be made in accordance with the provisions of the Plan and all applicable Rules and Procedures. The Trustee should be authorized to make such disbursements without further modification of the Chapter 13 Plan.

14. The following is a list of any additional documents any party to this Loan Modification Agreement must execute to effectuate this Loan Modification Agreement, if any:

15. The fully executed Loan Modification Agreement is attached hereto as Exhibit "A" and is incorporated herein by reference.

16. Contemporaneously with the filing of this Motion, a copy of it will be uploaded to the Portal.

WHEREFORE, PREMISES CONSIDERED, Movant prays for an Order of this Court:

- (1) Approving the terms of the Loan Modification Agreement;
- (2) Authorizing the Chapter 13 Trustee or the Debtor, as provided in the Loan Modification Program, to take the actions and make the disbursements described in this Motion or in the Loan Modification Agreement without modification of the Chapter 13 Plan and without further order of the Court;
- (3) Authorizing the payment of any additional fees, costs or deposits to the Lender as set out in the Motion;
- (4) Finding that the Debtor will be current to the Lender subject to the conditions described herein;
- (5) Deeming any proof of claim filed by the Lender to be amended consistent with the terms set out in this Motion and the Loan Modification Agreement and finding that Lender is not required to file an amended proof of claim;
- (6) Finding that the Lender is not required to file a Notice of Payment Change or a Notice of Fees, Expenses, and Charges pursuant to Rule 3002.1 of the Federal Rules of Bankruptcy Procedure with regard to any payment obligation disclosed in this Motion;
- (7) Finding that the Lender may file a Notice of Payment Changes and/or a Notice of Fees, Expenses, and Charges in accordance with Rule 3002.1 of the Federal Rules of Bankruptcy Procedure regarding any payment changes that occur or any fees, expenses and charges that arise after the effective date of the Loan Modification Agreement;
- (8) Requiring the execution of any additional documents described in this Motion; and
- (9) Ordering such other and further relief to which Movant is justly entitled.

Respectfully submitted

Signature _____

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the foregoing was served on each LMM Party by [describe method of service], and on the Chapter 13 Trustee by [describe method of service], all on the _____ day of _____, 20____.